Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009

Message Text

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ORIGIN TRSE-00

INFO OCT-01 EA-09 ISO-00 L-03 EB-07 COME-00 SS-15
SP-02 OMB-01 /038 R

DRAFTED BY: TRSY/OS/MFIELD/IMW
APPROVED BY: STATE/L/T A.W.ROVINE
TRSY/OS/CKINGSON
EA/IMS:MR DORNHEIM
L/OES:MR COLSON
----------084687 250621Z /23
R 241824Z JUN 77
FM SECSTATE WASHDC
TO AMEMBASSY JAKARTA

UNCLAS STATE 147621

E.O. 11652: N/A

TAGS: EFIN

SUBJ: PROPOSED U.S.-INDONESIA INCOME TAX TREATY SUMMARY

REF: STATE 238474 OF OCTOBER 7, 1975 AND PREVIOUS

REPRESENTATIVES OF THE AD HOC COMMITTEE FOR AN INCOME TAX TREATY BETWEEN THE UNITED STATES AND INDONESIA, WHICH INCLUDES 25 U.S. COMPANIES DOING BUSINESS IN INDONESIA, HAVE REQUESTED THAT EFFORTS TO SIGN PROPOSED U.S.-INDONESIA TAX TREATY BE REVIVED. THEY NOTED THAT NOT ONLY IS THE TREATY OF INTEREST TO U.S. INVESTORS BUT THAT GOI OFFICIALS HAVE RECENTLY INFORMALLY INDICATED INTEREST IN MOVING AHEAD. WOULD APPRECIATE EMBASSY'S CONSULTING WITH APPROPRIATE GOI OFFICIALS AS TO WHETHER SUGGESTIONS MADE BELOW ARE ACCEPTABLE AND IF SO, WHETHER WE CAN PROCEED TO SIGNATURE.

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1. THE ONE REMAINING ISSUE THAT WE ARE AWARE OF IS THE DEFINITION OF THE TWO COUNTRIES. THE ATTEMPT TO DEFINE THE NATIONAL TERRITORY AS INCLUDING THE CONTINENTAL SHELF RAN INTO THE PROBLEM OF CONFLICTING DEFINITIONS. U.S. TREATY POLICY HAS SUBSEQUENTLY BEEN REVIEWED AND A NEW MODEL INCOME TAX TREATY WAS DEVELOPED LAST YEAR WHICH WOULD REMOVE THIS OBSTACLE IF ACCEPTABLE TO GOI. IT WOULD INVOLVE TWO

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MODIFICATIONS TO THE TEXT. FIRST, ARTICLE 3 (1)(A) AND (B) TO READ AS FOLLOWS:

"(1)(A) THE TERM "UNITED STATES" MEANS THE UNITED STATES OF AMERICA; BUT DOES NOT INCLUDE PUERTO RICO, THE VIRGIN ISLANDS, GUAM OR ANY OTHER UNITED STATES POSSESSION OR TERRITORY.

B. THE TERM INDONESIA MEASN THE "REPUBLIC OF INDONESIA."
SECOND, THE PROTOCOL PARAGRAPH "AD ARTICLE 3" WOULD BE DELETED.

2. IN ADDITION, WE WOULD WANT TO MAKE CLEAR THAT THE TREATY DOES NOT TAKE A POSITION ON THE CREDITABILITY OF PAYMENTS TO INDONESIA BY U.S. OIL COMPANIES. THAT ISSUE IS BEING WORKED OUT UNDER U.S. LAW AND THE TREATY SHOULD CONFIRM BUT NOT CHANGE U.S. LAW. THIS MAY REQUIRE SOME MODIFICATION TO THE LAST SENTENCE OF PARAGRAPH 1 OF ARTICLE 23 IF GOI CONSIDERS THOSE PAYMENTS TO BE COLLECTED UNDER THE COMPANY TAX AND THEREFORE COVERED BY ARTICLE 2 (1)(B). PLEASE CLARIFY WITH GOI OFFICIALS WHETHER THEY CONSIDER OIL COMPANY PAYMENTS TO BE COVERED, AND IF SO, IF THEY COULD AGREE TO SPECIFY THAT THE CREDIT IN SUCH CASES WOULD BE IN ACCORDANCE WITH U.S. LAW.
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3. ONE FURTHER CHANGE REQUIRED PRIOR TO SIGNATURE WOULD BE TO CHANGE THE EFFECTIVE DATE IN ARTICLE 30 TO JANUARY 1, 1978 OR, PREFERABLY, TO "ON OR AFTER THE FIRST DAY OF JANUARY NEXT FOLLOWING THE DATE ON WHICH THIS CONVENTION ENTERS INTO FORCE."

4. PLEASE ADVISE IF GOI AGREEABLE TO SIGNING TEXT WITH THESE CHANGES. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INCOME TAXES, TAX AGREEMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 24-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Document Source: CORE
Document Unique ID: 00
Drafter: TRSY/OS/MFIELD/IMW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770227-1099
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1977/newtext/t19770619/aaaaaqro.tel
Line Count: 103
Litigation Code IDs:
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Litigation History:
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Office: ORIGIN TRSE
Original Classification: UNCLASSIFIED
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Original Previous Classification: n/a
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Reference: 77 STATE 238474
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08-Nov-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
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Review Withdrawn Fields: n/a
SAS ID: 2034219
Secure: OPEN
Status: NATIVE
Subject: PROPOSED U.S.-INDONESIA INCOME TAX TREATY SUMMARY
TAGS: EFIN, US, ID
To: JAKARTA
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/f4df7e76-c288-dd11-92da-001cc4696bcc
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